*** THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

+ WRIT PETITION Nos.20329 AND 20525 OF 2007

% Dated:22.10.2007

Dr. Reddy's Laboratories Limited,
A Public Limited Company, having their
Registered office at 7-1-27, Ameerpet,
Hyderabad, rep. By its authorized signatory
and Director (Legal) Sri N.L. Narasimha Das.

…PETITIONER

Versus

The State of Andhra Pradesh,
Department of Revenue,
Saifabad, Hyderabad, rep. By its
Principal Secretary and others.

…RESPONDENTS

! Counsel for the petitioner : Sri B.Nalin Kumar

^ Counsel for the respondents: Government Pleader for Revenue,
Sri O.Mohan Reddy.

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> Head Note:

? Cases referred:

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BETWEEN

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…RESPONDENTS

COMMON ORDER:

The petitioner in both the writ petitions is one and the same. W.P.No.20389 of 2007 has been filed seeking a direction to the first respondent to consider and dispose the application filed by it on 18.09.2007 for alienation of land of an extent of Ac.10.20 guntas in Sy.No.44 of Bachupally Village, Qutubullapur Mandal, Ranga Reddy District resumed from it and to direct the respondents not to demolish its factory premises pending disposal of the said application.

2. W.P.No.20525 of 2007 has been filed questioning the letter of District Collector, Ranga Reddy District bearing Lr.No.Lc4/3462/2007 dated

05.09.2007 addressed to the Tahsildar, Qutubullapur, instructing him to hand over advance possession of the said resumed land to the Andhra Pradesh Central Power Distribution Corporation Limited (APCPDCL).

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

WP.No.20329 of 2007:

4. Petitioner is a pharmaceutical company and it was established a decade ago in Sy.Nos.41 to 47, 53 and 83 of Bachupally Village, Qutubullapur Mandal, Ranga Reddy District including the land in Sy.No.44 comprising Ac.10.20 guntas is relevant to the writ petitions and the same has been developed by investing several hundreds of crores of rupees. The said lands have been resumed by passing an order in file No.A/3511/2005 dated 15.12.2005 under Section 4(1)(a) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). A perusal of the said order goes to show that the said land of Ac.10.20 guntas was assigned in favour of Chakali Sattemma; Neerudi Maisaiah; Neerudi Rajaiah; Chakali Yellaiah;
Agam Chinna Yellaiah; Neerudi Papaiah; Medishetti Pentaiah; Shivolla Pentaiah; Neerudi Narsaiah; Neerudi Kistaiah and Smt. Pentamma;
in an extent of Ac1.00 guntas to each assignee except Ac.0.20 guntas to one assignee.

Petitioner thought it fit not to litigate with the Government with regard to the resumption orders instead filed an application dated 28.12.2005 before the District Collector, Ranga Reddy District marking copies to the Principal Secretary to the Government, Revenue Department, requesting to assign the said land in its favour.
Followed by the same another application dated 15.12.2006 was filed. The District Collector, Ranga Reddy District informed the petitioner vide memo letter No.E5/565/2006 dated 20.02.2006 that its request for allotment of land in

Sy.No.44 has been rejected as there is no provision for allotment of assigned land.

5. Learned counsel for the petitioner submits that the provisions of the Act have been amended and as per the amended provision of Section 4(1)(b) of the Act after the resumption of the notified lands the possession need not be restored in favour of the original assignee but will be utilized for public purpose. Public purpose as defined includes the weaker section housing; public utility; infrastructure development; promotion of industries and tourism or for any other public purpose. He further submits that the Government in public interest and for public purpose notified the lands in Ranga Reddy District and to avail the amended provision of Section 4(1)(b) by Act 8 of 2007 the petitioner filed an application dated 14.02.2007 before the District Collector. The request dated 14.02.2007 has not been considered and in the meanwhile the official respondents came to the site of the petitioner on 06.09.2007 to dispossess the petitioner, therefore, an appeal has been filed before the Revenue Divisional Officer. The petitioner also filed W.P.No.19090 of 2007 to direct the respondents not to take any action pending disposal of the appeal against the resumption order and this Court by order dated 07.09.2007 directed the Revenue Divisional Officer to consider and dispose the appeal dated 06.09.2007, filed against the resumption order dated 15.12.2005, served on the petitioner on 17.12.2005, within two weeks from the date of receipt of a copy of the said order and to communicate the decision taken on the said appeal to the petitioner by registered post acknowledgement due apart from any other mode of service and status quo for a period of two weeks existing as on the date of disposal was ordered.

He further submits that the petitioner filed an application dated 18.09.2007 before the State Government as well as the District Collector, Ranga Reddy District to alienate the said land in its favour. Even before the application of the petitioner is considered, the District Collector is taking steps to deliver advance possession to APCPDCL in anticipation of the allotment in

favour of APCPDCL; therefore, the petitioner seeks a direction to the respondents to dispose the said application and meanwhile to maintain status quo with reference to the said land by declaring the action of the respondents in seeking to demolish the factory premises as illegal and arbitrary.

WP.No.20525 of 2007:

6. This writ petition has been filed to declare the letter of the District Collector, in Lr.No.Lc4/3462/ 2007 dated 05.09.2007 in ordering to deliver advance possession of the said resumed lands as illegal, arbitrary, discriminatory, violative of Article 14 of the Constitution of India and against

7. A perusal of the impugned letter dated 05.09.2007 goes to show that pursuant to the request made by the Superintending Engineer (Elec) Operations, Greater Hyderabad, APCPDCL dated 05.09.2007 requesting to alienate the said Government land for construction of sub-stations; the District Collector instructed the Tahsildar to hand over advance possession of the said land to the Superintending Engineer of APCPDCL for construction of 220KV/132KV/33/11KV
sub-stations pending submission of alienation proposals. Pursuant to the letter dated 05.09.2007 advance possession was also handed over under the cover of panchanama on 06.09.2007.

8. Petitioner questions the said action of the District Collector on the ground that the District Collector has no power or authority to alienate the Government lands and the Government alone is empowered to alienate the said lands under the provisions of the Andhra Pradesh (Telangana Area) Alienation of State Land Revenue Rules, 1975 (for short 'the Rules'). It is stated that under Rule 4 of the Rules the Board of Revenue is empowered to sanction alienation of land in favour of local bodies or local authorities for any *bonafide* public purpose provided that the market value of the land does not exceed Rs.20,000/-. The Board of Revenue (Single Member) is empowered to sanction in respect of the value of such lands not exceeding Rs.10,000/-

but whereas the District Collector is empowered to sanction alienation in favour of Companies, private associations, societies, institutions or other private corporate bodies or private individuals when the market value of the occupancy rights in the lands does not exceed Rs.1,000/-. It is stated that the Collector is only empowered to sanction alienation but all such alienations require sanction of the State Government for which an application shall be made in Form in Appendix I. Thus, it is the case of the petitioner that no land shall be alienated without the orders of the Government. Accordingly, contends that the aforesaid letter of the District Collector dated 05.09.2007 instructing the Tahsildar to hand over advance possession pending alienation proposals in favour of APCPDCL is illegal and arbitrary.

9. It is pertinent to note that as against the resumption orders passed by the Deputy Collector and Mandal Revenue Officer, Qutubullapur Mandal dated 15.12.2005 a belated appeal filed before the Revenue Divisional Officer is dismissed in Case No.B/4011/2007 dated 08.10.2007. Questioning the said order the petitioner filed W.P.No.22089 of 2007, which was dismissed on 12.10.2007 with a liberty to the petitioner to file a revision under Section 4-B of the Act before the District Collector and so as to enable the petitioner to file a revision and obtain appropriate orders status quo for a period of two weeks has been granted.

10. After issuing the letter dated 05.09.2007 instructing to hand over advance possession of the said land, petitioner immediately filed application dated 18.09.2007 for alienation of land. Therefore, the petitioner seeks a direction to the respondents not to demolish the factory premises pending disposal of the application. Admittedly the said lands are assigned lands and the petitioner purchased the said assigned lands in contravention of sub-section (2) of Section 3 of the Act IX of 1977; therefore, the competent authority has resumed the said lands. The appeal filed against the resumption orders has also been dismissed and a revision is yet to be filed pursuant to the orders of this Court in W.P.No.22089 of 2007 dated

12.10.2007. Pursuant to the resumption orders possession of the said land was taken on 29.11.2005 under the cover of panchanama but the petitioner submits that the permanent structures have not been demolished and his application dated 28.12.2005 for alienation of land has been rejected by the District Collector vide letter dated 20.02.2006. After the amendment of the Act the petitioner filed another application dated 18.09.2007.

11. As the application of the petitioner dated 18.09.2007 is pending before the respondents, the only question that arises for consideration is as to whether the petitioner is entitled to state that the action of the respondents in seeking to demolish the factory premises pending disposal of the application as illegal and arbitrary.

12. Admittedly the said lands are assigned lands and the petitioner contravened the provisions of sub-section (2) of Section (3) of the Act. If that be so, under the Act it is open for the respondents to take possession of the land after evicting the petitioner. Accordingly, it is stated that after passing resumption orders, the possession has been taken on 29.11.2005; therefore, the said lands have already been vested in the Government much prior to amended Section 4(1)(b) of the Act. The claim, if any, made by the petitioner only arises after the amended provision of Section 4(1)(b) of the Act otherwise he would not have any such right to purchase the said assigned lands. However, as the application said to have been filed by the petitioner for alienation of the land after amended provision is pending before the Government, I am not inclined to express any opinion with regard to the entitlement or right of the petitioner for the purchase of the said lands, as it is for the Government to take a uniform policy decision to alienate the said lands, to avoid hardship, for public purpose such as public utility; infrastructure development; promotion of industries and tourism or for any other public purpose as contemplated in the explanation to Section 4(1)(b) of the Act as amended by Act 8 of 2007 which came into retrospective effect from 21.01.1977.

13. Insofar as other grievance of the petitioner with regard to letter dated 05.09.2007 is concerned, it is stated that a requisition has been made requiring the Government land for construction of electrical sub-stations and pursuant to the said requisition various lands have been identified for construction of sub-stations and decided to give advance possession. It is further stated that pursuant to the request of the officials of the APCPDCL for allotment of land for construction of sub-stations at various places, a meeting was held by the District Collector, Ranga Reddy District, in the presence of Joint Collector; District Revenue Officer; Deputy Collector; Officials of APCPDCL and concerned Mandal Revenue Officers and a decision has been taken to hand over advance possession pending disposal of alienation proposals. Accordingly, the aforesaid letter dated 05.09.2007 has been issued to hand over advance possession and accordingly advance possession of Ac.10.20 guntas has been handed over on the next day i.e. 06.09.2007, as APCPDCL is a Government company and it is not a private organization.

14. As the land has been vested long back in the Government, it is for the Government to decide by passing appropriate orders on the pending application of the petitioner dated 18.09.2007, but as there is no alienation so far, I am of the opinion that there is no illegality or irregularity in any of the aforesaid actions of the respondents.

Having regard to the facts and circumstances of the case,
the writ petitions are accordingly disposed of directing the respondents to consider and dispose the application of the petitioner dated 18.09.2007 as expeditiously as possible without any undue delay by taking appropriate decision as indicated above. There shall be no order as to costs.

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V. ESWARAIAH, J

October 22, 2007
DSK